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VIOLENCE IN LABOR DISPUTES

T. S. ADAMS

I. *The Extent of Violence*: At the very threshold of the subject we are met with a radical difference of opinion concerning the extent of violence in labor disputes. The great majority of employers undoubtedly believe that violence is the mainstay and chief resource of trade unionism. Labor leaders almost unanimously deny that violence is anything more than a regrettable but unimportant incident of the labor movement. According to Mr. Parry: "Organized labor knows but one law, and that is the law of physical force—the law of the Huns and Vandals, the law of the savage. All its purposes are accomplished either by actual force or by the threat of force."¹ According to John Mitchell: "The amount of violence actually committed is grossly exaggerated, and that which is fairly traceable to the officials of trade unions is almost infinitesimal"²

The issue here is squarely raised. Which assertion is correct? Confining our attention to physical violence only, it is possible to say, with some assurance, that Mr. Mitchell is undoubtedly correct. We have no official statistics of violence, but fortunately, Mr. Slason Thompson³ has recently compiled statistics covering the entire United States, which are doubtless substantially correct. If they are affected at all by a personal equation—I have no reason to believe that they are—they are probably too high, rather than too

¹ Annual report (1903) to the National Association of Manufacturers. Quoted in the *Independent*, Vol. 55, p. 982.

² Mitchell—Organized labor, p. 321.

³ See the *Outlook*, Vol. 78. p. 969 *seq.*

low. Mr. Thompson's figures cover the whole United States for the two and a half years beginning Jan. 1, 1902 and ending June 30, 1904. This period includes the most violent of the Colorado labor disturbances, the great anthracite coal strike of 1902 and other unusually important strikes, so that it was not abnormally peaceful to say the least. Mr. Thompson's figures in detail are as follows :

<i>State</i>	<i>Killed</i>	<i>Injured</i>	<i>Arrested</i>
California	6	34	31
Colorado	42	112	1345 ¹
Connecticut	4	43	65
Idaho	0	12	0
Illinois	35	477	1353
Indiana	0	14	39
Iowa	3	5	22
Kentucky	3	0	5
Louisiana	1	38	79
Maryland	0	9	10
Massachusetts	0	3	19
Michigan	3	4	7
Minnesota	0	9	1
Mississippi	0	0	1
Missouri	8	40	69
Nebraska	2	5	9
Nevada	3	4	1
New Jersey	3	76	125
New York	4	123	1010
Ohio	3	20	23
Oregon	0	4	18
Pennsylvania	35	486	678
Tennessee	4	7	88
Texas	1	15	62
Utah	0	41	223
Virginia	1	24	25
Washington	0	6	11
West Virginia	13	19	192
Wisconsin	1	1	10
Arizona	5	18	12
Total	180	1651	5533

¹ In addition, 573 persons deported.

Mr. Thompson's figures bear out the unionist's contention that, comparatively speaking, violence in labor disputes is not widespread, although they do not—at least on their face—bear out his contention that the employer and the employer's agents are responsible for most of the violence. The statistics show that in the two and a half years under consideration, 180 men were killed, 1651 injured, and 5533 arrested in strikes in the United States. Of the 180 killed, 13 were officers, 51 union strikers, and 116 non-union men. Of the 1651 injured, 134 were officers, 151 union strikers, and 1366 non-union men. Of those arrested, only 374 were non-union men, and 5159 union strikers.

Let us clearly understand the meaning of these figures. In themselves they are distressing enough. One innocent man beaten to death in the course of a thousand years is an infinite outrage. But after all, we must keep our sense of proportion. The world is still full of violence, and compared with some of the really prevalent forms, strike violence pales into insignificance. I have drawn, very roughly, a few comparisons to illustrate this statement. In the period under consideration, more lives were taken in lynching bees,—by seventy per cent—than in strikes, and practically twice as many persons were legally executed for capital crimes. In Greater New York alone, in an average year, there are nearly ten times as many homicides as deaths in strikes in the whole United States; and in the same city there are four times as many arrests for assault and battery, as in the whole United States for similar violence in strikes. Or another kind of illustration may help. If industrial accidents are relatively as frequent in the United States as in Germany, and if as large a proportion are due to faults of employers as in England,

then in the period under consideration, owing to the carelessness of employers alone, there were in the United States not less than 2400 persons killed, 20,400 disabled for life, 16,500 temporarily disabled for more than 13 weeks, and 120,000 incapacitated for more than three days and less than 13 weeks.¹ Compared therefore with industrial accidents due to criminal carelessness, or with the violence due to intoxicating liquor, strike violence is as dust in the balance.

II. *The Real Evil*: Is there, then, no real evil? Are we but disturbed by ugly dreams, inspired by the highly colored stories of yellow journals? I wish we could content our scientific judgment with so comforting a conclusion. There *is* an evil, widespread, important, and menacing. In a normal year, in the United States, only 120-160 people are executed for capital crimes but these are sufficient both to strike terror to people of murderous intent, and to indicate the existence of wide-reaching agencies of protection, whose business it is to create that atmosphere of law and order, without which modern life would be unbearable. So, similarly, even though there be only 70 odd deaths a year in strikes, these are amply sufficient to disclose the existence and activity of forces, which inevitably make for coercion, intimidation, and disorder, which *have* created and *do* maintain an atmosphere of oppression and moral, if not physical, violence. In short, I see no escape from the conclusion that the typical strike is waged in an atmosphere so surcharged with menace, that widespread intimidation and sporadic acts of violence are precipitated as inevitably as the atmosphere of the earth precipitates dew.

¹ Based upon estimates given in the seventeenth report of the (New York) Bureau of Labor Statistics, pp. 557-558.

At this point I must confess that it is impossible to "prove" the assertion just made, by anything short of a statistical enumeration of the number and proportion of strikes in which intimidation and disorder occur. However, these are some of the grounds upon which this assertion rests :

1. The first reason for the belief that the normal atmosphere of the typical strike is one of menace, is found in the tremendous sums which the employers annually spend to protect their property and the lives of their loyal employees in times of strike:¹ the stockades they erect, the special policemen they employ, the defence funds which they amass in their associations.² The American employer is not given to unnecessary precaution, particularly when it is costly ; our statistics of industrial accidents prove this. He spends this money because he knows that the strike is dangerous, and the police, the reporter, and the non-union man know it, the last best of all.

2. The character of our least offensive strikes proves the point I am making. Taking into account all the attendant circumstances, the anthracite coal strike was, as it has been called, a comparatively "peaceable strike;" and the officials of the united mine workers have just reason to be proud of the manner in which it was conducted. Yet the catalogue of disorder which marked it, houses burned, trains wrecked, men beaten, women and children insulted and proscribed, is sickening.³ The temperate and measured discussion of this

¹ See Report of the Industrial Commission, vol. VIII, pp. 386, 394, 395.

² See *The Open Shop*, Jan , 1905, p. 25.

³ See *The Outlook*, vol. 78, p. 971.

aspect of the strike, by the Anthracite Coal Strike Commission, deserves to become a classic :

“Although some reflections on the general subject have been made, no discussion of the conditions prevailing in the anthracite region during the continuance of the late strike, would be adequate, that did not fully deal with the disorder and lawlessness which existed to some extent over the whole region, and throughout the whole period. It is admitted that this disorder and lawlessness was incident to the strike. Its history is stained with a record of riot and bloodshed, culminating in three murders, unprovoked save by the fact that two of the victims were asserting their right to work, and another, as an officer of the law, was performing his duty, in attempting to preserve the peace. Men who chose to be employed, or who remained at work, were assailed and threatened, and they and their families terrorized and intimidated. In several instances the houses of such workmen were dynamited, or otherwise assaulted, and the lives of unoffending women and children put in jeopardy. The armed guards, employed to protect the collieries and the men who worked them, appear not to have been an unnecessary precaution, and the governor of the state was, as the evidence before the Commission shows, justified in calling out the citizen soldiery of the commonwealth to preserve its peace and vindicate its laws.

“The resentment expressed by many persons connected with the strike, at the presence of the armed guards and militia of the state, does not argue well for the peaceable character or purposes of such persons. No peaceable or law-abiding citizen has reason to fear or resent the presence of either.

“It is true that exaggerated accounts of the disturbances were published, and there was testimony from reputable witnesses, tending to minimize them, and vouching for the good order of the communities in which such witnesses live; but these were mainly in the localities in which the operators made no attempt to work the collieries. It is also true, and justice requires the statement, that the leaders of the organization which began and conducted the strike, and notably its presi-

dent, condemned all violence, and exhorted their followers to sobriety and moderation. It would seem, however, that the subordinate local organizations and their leaders, were not so amenable to such counsels as to prevent the regrettable occurrences to which reference has been made."¹

3. Finally, it is unnecessary to go beyond the testimony of our most respected labor leaders themselves, to prove the principal point which I desire to make. "A strike or lockout," says John Mitchell, "is coercion, but it is lawful,"² The labor leader claims a lawful right to boycott the employer, to picket his establishment, to denounce and ostracize the scab, to make contracts against the employment of non-union men, in short to coerce employer, public, and non-union employee by all means short of misrepresentation and physical violence. It is admitted that the essence of the strike is boycott, ostracism, and coercion. Now, all I add is that the participants in strikes being what they are, coercion and ostracism cannot and do not stop short of molestation, obstruction, intimidation, and menace, and that in the nature of things, threats and intimidation cannot fail to yield a fair crop of physical violence.

Consider what a strike actually is. A hundred, a thousand, or a hundred thousand men go on strike. They see an indefinite period of unemployment before them, their credit disappears, their little savings dwindle, their jobs are taken by an indiscriminate horde of strike-breakers, who are too often merely toughs, adventurers, or irresponsible ne'er-do-wells. In the theory of the law the strikers may accost these strike-breakers and reason with them, persuade them, exhort them, but they may not restrain, intimidate, or

¹ Bulletin (U. S.) Department of Labor, No. 46, pp. 499, 500.

² Organized labor, p. 319.

threaten them. What nonsense to lay down such laws ; what folly to expect reason, persuasion, and exhortation ; what certainty of threats, heated arguments, blows, and violence.¹

In that thrilling book, "The story of a labor agitator,"² Mr. Buchanan tells of a strike which he led against the Rio Grande Railway Co. After describing his efforts to block several schemes of active violence which were suggested or started, Mr. Buchanan continues : "I do not mean that the Rio Grande strike was a milk and water affair or that the men in charge were meek and humble suppliants at the feet of the public and the company. We did all we could to embarrass the management by means not forbidden by law and many were guilty of 'contempt of court,' and glad of it. We did our best to prevent men from performing service on the trains, *and we never ceased for a moment from the agitation of creating an atmosphere unsuited for 'scabs.'*"

Here we have the heart of the whole problem. Strikers claim the right to create, and in practice actually do create, this "atmosphere unsuited to scabs." They claim the right to boycott, to ostracize, to proscribe ; and they claim—or a large proportion claim—the privilege of enforcing these rights by the sympathetic strike, the closed shop and the unfair list. Per-

¹ "To ask men to unite in self-sacrifice for principle, involving, as most strikes necessarily must, deprivation and distress to themselves and those dependent on them, and expect them to see their places filled without the resentment that would kill the thing it hates, is to imagine men emancipated from the passion that sent Cain forth a fugitive on the face of the earth. A strike without violence of some sort is a barren idealism that exists only in the minds of self-deceived sentimentalists, professional agitators, and unsophisticated economists." Slason Thompson in *The Outlook*. vol. 78, p. 972.

² Pp. 174, 175.

mit these rights to be exercised—as they claim the right to exercise them—for no reason or any reason, and then, I say, the addition or non-addition of a little physical violence is a matter of comparative indifference. If my shop-mates and my neighbors are to ostracize me, banish me from their midst, close upon me the doors of the shops where I trade, embitter the life of my children, insult my wife and eventually deprive me of work by a closed contract with my employer, then I should prefer them to do the job thoroughly, and finish their work by breaking my head.

III. *Is Violence Increasing?* If we agree, then, that physical violence *is* significant as the sign and index of widespread moral violence, the question next arises, will this condition of affairs work its own cure? Is it true, as it is so often stated,¹ that violence diminishes with the passage of time?

Owing to the limitations of time, the most that it is possible to do in answering this question, is to present my own conclusions. I am not certain that they are correct, but they are based, at least, upon the examination of some 700 cases of strikes and violence before 1880, nearly 300 of which occurred before 1870.²

1. The most discouraging feature of strikes, from the historical standpoint, is their sameness from period to period. The very first American strikes of which we

¹ "With the growth of unionism there has been a distinct amelioration in the conduct of strikes. Formerly violence and bloodshed were common, now they are rare." Seligman, *Principles of economics*, p. 439.

² The list given in the sixteenth annual report of the Commissioner of Labor, pp. 721 to 804 was used as a foundation. I am greatly indebted for additional material to Professors J. R. Commons and U. B. Phillips, and in particular to Miss Helen L. Sumner and Mr. J. B. Andrews of the Bureau of Industrial Research. For the statistical work and much laborious research I am indebted to Mr. Robert Campbell of the University of Wisconsin.

have any detailed knowledge—those between the master and journeymen cordwainers of Philadelphia in the period 1794–1806—present the familiar modern features of an employers' association lined up against a militant trade union with a salaried business agent and a strike benefit (but no other insurance benefits).¹ Violence does not seem prominent in the strikes before 1830, but from the very beginning the chief dependence has been placed upon ostracism or "scabbing" as it was called in the eighteenth century, and the policy of the closed shop.

2. There were peaceable strikes and trade unions of the conservative type² in the United States in the first half of the nineteenth century, but during the fourth decade a wave of radicalism and lawlessness swept over the country,³ from which neither the American people nor the American laborer has as yet wholly recovered. In 1833, Abdy, the English traveller, personally witnessed a New York strike which was conducted "without any attempt or apprehension of intimidation. Many of the malcontents," he tells us, "were well-dressed men; and all of them orderly and respectable in their appearance."⁴ But shortly after this, or even before, a great

¹ The trial of the boot and shoemakers of Philadelphia, taken in shorthand by Thomas Lloyd (1806), *passim*. This volume contains an abstract of the journal of an employers' association, founded in 1789, and verbatim reports of the testimony of twenty one witnesses. It is of unique importance in the history of the American labor movement.

² See for instance the declaration of principles by the Mutual Benefit Society of Journeymen Cordwainers of Lynn, in *The Awl* of July 17, 1844: "We shall not declare war with, nor attempt to injure, our employers We wish to raise the standard of self respect, etc."

³ See Evans Woolen, *Labor troubles between 1834 and 1837 in the Yale Review* for May, 1892.

⁴ E. S. Abdy, *Journal of a residence and tour in the United States of North America*, Vol. I, pp. 30–32.

change occurred. Michael Chevalier's comments upon the violence of American labor disputes form the most disparaging chapter in his eulogistic book upon "Society, manners and politics in the United States."¹ Philip Hone preserves in his "Diary" a fiery handbill inviting violence against Judge Edwards, a New York justice who sentenced several tailors to jail for conspiracy.² On Sept. 5, 1835, the editor of *Niles Register* announces that: "During the last and the present week we have cut out and laid aside more than 500 articles, relating to the various excitements now acting on the people of the United States, public and private. Society seems everywhere unhinged, and the demon of 'blood and slaughter' has been let loose upon us.'" In 1837, Abraham Lincoln made violence the subject of a public address, in which he said: "Accounts of outrages committed by mobs form the every day news of the times."³ On every hand, the people were taking the law into their own hands—the militia, as Chevalier said, looking on; the sheriff standing with folded arms—and the working people naturally imitated their fellow citizens. They are still imitating.⁴

3. Since the revolutionay period 1830-1850 the tendency to violence, I believe, has perceptibly abated. This is a quantitative subject, and must eventually be answered statistically. In an attempt to get some light upon proportions, decrements, and increments, I have had all the strikes previous to 1880 tabulated, about which I could secure any detailed knowledge at all.

¹ Letter XXIV, Aug. 4, 1835.

² The Diary of Philip Hone, Vol. I, pp. 210, 211.

³ For this and the preceding quotation see Cutler, *Lynch law*, pp. 104, 111.

⁴ See S. M. Sexton, *Outlook*, vol. 79, p. 199.

The data are scant, and it is necessary to assume, where a fairly good account is given and no violence is mentioned, that none occurred. In truth, the statistics are so poor, that if they had clearly conflicted with the conclusions derived from non-statistical data, I should stand by the latter and throw overboard the statistics. However, they bear out completely the conclusion derived from general study, the conclusion that, in any strike of a given size, there is less likelihood of violence today, than there would have been sixty years ago ; but that, owing to the undoubted increase in the number of strikes, the aggregate volume of violence has grown enormously. This conclusion rests upon a long historical survey, and is not necessarily true of the tendencies of the moment.

4. Having regard to tendencies in the various trades or occupations, it is plain that encouraging progress has been made in some, while in others the most favorable conclusion possible is that no marked improvement has occurred. The history of the railroad brotherhoods, for instance, shows a rapid development of the power of self-control, while the magnificent handling of the longshoremens and eastern miners in recent years, by their respective unions, demonstrates the power of labor organizations to minimize strikes and restrain violence among classes of workmen peculiarly prone to violent methods. In order to test this conclusion statistically, I have had the strikes previous to 1880 tabulated by trades, so as to show the number and proportion in which violence is known to have occurred.¹

¹These statistics are just as bad as their predecessors, but both sets are probably better than unchecked, off-hand statements. When we are dealing with quantitative subjects, we think arithmetically, whether we know it or not, and the figures are preferable to mental arithmetic.

TABLE II

STRIKES IN THE UNITED STATES. BY DECADES. 1796-1880

	UNION				No UNION AND UNCERTAIN				TOTAL				Per cent with Violence
	With Violence	Without Violence	Uncertain	Total	With Violence	Without Violence	Uncertain	Total	With Violence	Without Violence	Uncertain	Total	
1796-1800-----	..	..	3	3	..	..	..	..	..	..	3	3	00
1800-1810-----	1	..	1	2	1	..	..	1	2	..	1	3	67
1810-1820-----	..	..	1	1	..	..	1	1	..	..	2	2	00
1820-1830-----	..	..	1	1	..	..	2	2	..	..	3	3	00
1830-1840-----	1	1	4	6	4	..	16	25	5	6	20	31	16
1840-1850-----	3	..	4	7	5	5	11	17	8	1	15	24	33
1850-1860-----	1	..	6	7	5	1	34	39	6	..	40	46	13
1860-1870-----	2	..	28	30	4	..	33	37	6	..	61	67	9
1870-1880-----	10	2	76	88	9	..	140	149	19	2	216	237	8
Total-----	18	3	124	145	28	6	237	271	46	9	361	416	11

Confining our attention to trades represented by more than ten strikes, we find that violence was most prevalent among day laborers shoemakers, textile workers, and miners, and least prevalent among building workers, iron and steel workers, ship builders, and glass blowers. At present, day-laborers are responsible for little strike violence, while the building and iron and steel workers, I fear, would have to take a high rank. The point which I desire to emphasize, is the possibility of a trade degenerating in this respect. We are far too inclined to argue, instinctively, rather than consciously, that as new unions grow old they necessarily become more peaceable; and that because trade unionism has led to the joint conference system and comparative immunity from violence in England, it will inevitably produce the same results in the United States. Such optimism, I fear, is unwarranted. Among the more advanced nations of the world, the American people stand alone and unrivalled in their aptitude for lawlessness. We have much to learn in this connection from the history of lynching in the United States.¹

5. From the qualitative standpoint—and about this fact I feel unusually certain—a noticeable change has undoubtedly come over strike violence. The quasi-statistics which I have used (Table II) indicate that a large majority of the strikes before 1870 were not conducted by trade unions. They were more or less spontaneous outbursts, and the violence which they engendered was sporadic, passionate, defiant, frank; while

¹“While the decrease in the number of lynchings per year since the early nineties affords some hope for the future with reference to the suppressing of lynchings, still the number of cases in which the victims are subjected to extreme torture indicate that too much reliance cannot be placed upon any apparent decline in the tendency to lynch.” Cutler, *Lynch law*, p. 275,

TABLE III
STRIKES IN THE UNITED STATES. BY TRADES. 1796-1880

TRADE	UNION				NO UNION AND UNCERTAIN				TOTAL				Per cent with Violence
	With Violence	Without Violence	Uncertain	Total	With Violence	Without Violence	Uncertain	Total	With Violence	Without Violence	Uncertain	Total	
Cotton and woolen mill operatives				22	7	2	52	61	12	3	68	83	14
Miners	5	1	16	22	5	1	34	40	8	1	51	60	13
Iron and steel workers	3		17	20	2		32	34	2		49	51	4
Shoe makers	6	1	22	29	2		20	22	8	1	42	51	16
Shipbuilders, carpenters, etc.			3	3	1	1	13	15	1	1	16	18	6
Glass blowers	1		6	7			10	10	1		16	17	6
Laborers					9	1	4	14	9	1	4	14	64
Building trades		1	3	4		1	7	8		2	10	12	0
Furniture, piano, and cabinet makers			3	3			8	7			10	10	0
Coopers			2	2			2	2			10	10	0
Cigar makers			8	8			2	2			10	10	0
Tailors		1	3	4			5	5		1	8	9	0
Hat and cap makers			4	4			3	3			7	7	0
Railroad engineers and trainmen	2		2	4			3	3	2		5	7	30
Stove molders		1	4	5			1	1		1	5	6	0
Tanners and morocco finishers			2	2			4	4			6	6	0
Pottery workers							4	4			4	4	0
Coal heavers	1			1			3	3	1		3	4	25
Stone cutters			2	2			2	2			4	4	0
Longshoremen	1		1	2	1	1	1	2	2		1	3	67
Sailors					2		2	2	2		2	2	100
Saddlers and harness makers							2	2			2	2	0
Printers			2	2			1	1			3	3	0
Bakers							1	1			1	1	0
Brick makers					1			1	1			1	100
Total	19	5	116	140	30	6	219	255	49	11	335	395	

the violence of today is too often cunning, systematic, and planful. In the thirties, for instance, outbreaks of mob violence in open, careless, brutal defiance of the law were frequent, particularly among the workmen upon the canals and railroads.¹ But one hears nothing of "wrecking crews" or "flying squadrons",² of "education committees" or "scab sluggers", of "strike breakers" or "spies".

To just what extent the labor violence of today is official—*i. e.*, deliberately planned—it is impossible to say. Certain it is that in some localities the non-union men entertain a very legitimate fear of their lives, while the union men are conscientious in their belief that much of the strike violence is deliberately instigated by agents of the employers.³ And cases of undoubted authenticity may be cited on both sides. At the present writing, for instance, ten men are on trial in Chicago for conspiracy to slug one Chris. J. Carlstrom, who was beaten and died shortly after from pneumonia, probably aggravated by the kicking and beating. In this case⁴, the president and business agent of the union have confessed that professional sluggers were hired to perform

¹ See Woolen, *Yale Review*, May, 1892; and Paulson's *Am. Daily Adv. (Phil.)*, issues of Apr. 8 and 11, June 1 and 3, Sept. 14 and Dec. 11, 1829—July 2, 4 and 18, Aug. 22, Sept. 5 and Nov. 29, 1831—Mar. 31 and April 2, 1832.

² See Report of the Industrial Commission, vol. VIII, p. 388.

³ "My experience in strikes has satisfied me, that there are many times when strikers are provoked, designedly, into the commission of unlawful acts for the simple purpose of furnishing justification upon which to base a call for the militia, in order that public sympathy may be alienated and to convey the impression that the strikers are in rebellion." Letter from John Mitchell.

⁴ For account see *The Chicago Record-Herald*, issues of Dec. 3 and 8, 1905. 66 days were required to obtain a jury in this case, and before the hearing of testimony began, it had cost the state approximately \$40,000.

this act by the board of directors of the union, and paid for their services out of the union funds. On the other hand there can be no reasonable doubt that in the Cripple Creek strike of 1903, detectives and spies in the employ of the mine operators, did instigate and participate in violence of the most despicable and sinister variety, with the object of discrediting the unions.¹

The real gravity of this systematic violence which occasionally comes to light, is the state of military preparedness which it connotes, the intensification of the conflict between labor and capital which it signifies, the armies of strike-breakers, spies and counter-spies whose existence it reveals. Capital and labor have now been playing the game of war for more than a century, and the game has been reduced to a science. When violence is employed, therefore, it will be employed scientifically, that is all; blows are no longer struck at random, they are directed at the nerve-centres. The mere extent of this systematic violence is relatively unimportant. The serious development of the century is the systemization of the boycott and blacklist, the constant and fairly successful effort of trade union and employers' association to improve and perfect their respective weapons of coercion, to give them a legal status and transform them—as the relatively innocuous pool was transformed into the more menacing holding company—into lawful instruments which are doubly oppressive, because doubly efficient, by reason of their very legality. Both sides are incessantly planning to perfect and legalize coercion and monopoly.

And for the worst of these evils neither capital nor

¹ Report of the (U. S.) Commissioner of Labor, 1905, Labor disturbances in Colorado, ch. XX. Cf. Report of the Industrial Commission, vol. VII, p. 719 and vol. VIII, pp. 257, 384. Buchanan, Story of a labor agitator, pp. 176-178, 248, 249.

labor is really to blame. John Smith owns a mine in Rocky Mountain Canyon and proceeds to develop it. Remembering bloody labor wars of the past, he thoughtfully builds round it a stockade, buys a machine gun, puts in a few stands of Winchester rifles, and an ex-prize-fighter or two as watchmen. Meanwhile the men take the hint, organize a union and exhort one another to remember that clause of the sacred palladium of our liberties which declares: 'The right of the people to keep and bear arms shall not be infringed.'¹ John Smith unites with his fellow operators and forms a defence association. The union amasses a strike fund. The association gathers a defence fund. The union announces its intention to enforce the closed shop rule. The employers perfect a labor bureau and prepare to blacklist—legally. The unions elect one of their members sheriff. The employers "see to it" that the circuit judge is "conservative." Organized labor in the state endorses and elects an attorney general. Organized capital buys the nomination of the governor. Sometime during this process a strike has broken out, and the long-continued, smouldering coercion breaks into the flame of actual violence. The conservative governor hurries a Sherman Bell to the scene, and it is not long before he is able to announce in the words of another military hero—"the backbone of the strike is broken." He has, perhaps, imprisoned innocent men in bull-pens, deported suspects, defied federal

¹In March, 1903, the Milwaukee Federated Trades Council passed the following resolution: "Resolved, that since no nation in which the people are totally disarmed can in the end remain a free nation, therefore we urge all liberty-loving citizens and especially union men to remember and obey Article II of the Constitution of the United States which reads as follows: "The right of the people to keep and bear arms shall not be infringed."

judges, and smashed printing presses. Departing, the militia leave behind them peace—and the seeds of resentment, class hatred, and subsequent rebellion. Then they start again on another round of this vicious circle.

So the endless chain of offence and defence goes on, until the itching fullness of the preparation invites with irresistible allurements to actual battle. God alone knows which side started it, and he with his infinite understanding cannot care. He who strikes a blow must, of course, be punished. Society cannot safely withdraw one inch from that stand. But in the larger sense nobody is responsible. In the situation which I have described, you and I would act with our fellows. You and I would perfect the boycott and the blacklist, bar the scab or the troublesome agitator, countenance the sympathetic strike or the sympathetic lockout, and, in a pinch, hire a strike-breaker whose crew was largely composed of professional bad men, or fail to protest against a vigorous business agent who was not above slugging a "scab" in an emergency. Of course we would not plan violence. The rank and file never do. But we would learn to tolerate useful agents who in the bottom of our hearts we feared were not above violence. It is the system which is at fault. The whole game is played in the atmosphere of moral violence, as football is played in the atmosphere of professionalism, and it must occasionally lapse into violence.

IV. *The Joint Conference System*: The system, happily, has been slowly developing an anti-toxin for this poison of systematic industrial war: the joint agreement or joint conference. Can we wait for the joint agreement to suppress the disease?

In all soberness of judgment I do not believe that we can or that we should. It is true that in the last few

years peace has been secured in a number of industries by the joint-agreement, and in England a still more encouraging achievement has been recorded. But there is no sound reason to expect that widespread peace will soon be effected in the United States. There is every reason to fear that when the Bureau of Labor publishes its next report on strikes, more persons will be shown to have participated in strikes between 1900 and 1905 than in any other quinquennium of our history. And the employers' association is not at present making for peace. For every employers' association of the peaceable sort, there are a half dozen union smashers, and a whole dozen, which, while not looking for strife, nevertheless hold as their chief object the maintenance of principles which are opposed to the fundamental tenets of trade unionism. Both sides are thoroughly sincere ; both are well-armed ; and both place principle above peace. Take into account the union's insistence upon the closed shop and the employers' repugnance to that policy ; give due weight to the spread of socialism and socialistic labor organization ; remember the many trades and localities which remain to be organized, together with the new union's proneness to strife ; add to all this the growing conviction among labor leaders (and even economists) that striking is good business policy, and we cannot intelligently hope for a diminution of industrial violence within any period short enough to justify consideration. Of course we may shut our eyes and trust to the doctrine that Providence takes care of fools, drunkards, and the United States. But some of us prefer common sense.

In concluding this phase of the discussion, it should be said that many of the most trustworthy authorities

believe that the employers' association will foster the joint-agreement system and thus hasten the era of peace. I hope this is a correct forecast. At our last meeting in Chicago we all agreed with rather startling unanimity that most American unions must and would maintain the closed shop. So long as the employers' associations repudiate this principle, there must be war, latent or active. When they accept the principle, then we shall have peace, but peace with monopoly: dishonorable and unprofitable peace unless the public or the state in some way is a party to the monopolistic agreement. But this point will come up again.

V. *The Police*: Another favorite remedy for strike violence, is improved police protection. "If the police would do their duty," employers frequently say, "there would be no violence." . . . "And no strikes, either," they frequently add, *sotto voce*. This opinion that the police, or more generally, "the authorities," are chiefly to blame, is often supported by the warmest friends of trade unionism. "Such [strike] violence," says Professor Bemis, "is almost entirely confined to places where the well-to-do and powerful citizens have almost entirely ignored their duty as citizens, and where, in consequence, the police force, if not the entire city government, has become inefficient and rotten to the core. . . . The remedy is civic reform, not the destruction of unionism."¹

Now there is much truth in this. Many cases of sickening incompetency or complicity on the part of the authorities might be cited; and as between the unions, the employers and the authorities, the last may fairly be charged with the largest part of the responsibility for strike violence. But mere censure of the

¹ The Independent, vol. 52, p. 1275.

police and advocacy of civic reform do not exhaust the question. There are deeper considerations to be taken into account :

1. Much strike violence arises not from inefficiency or complicity on the part of the police, but from a pardonable inadequacy of police protection, combined with a reasonable and justifiable disinclination on the part of the civil authorities to call in the militia. A police force which is amply sufficient in ordinary times, is wholly inadequate in periods of industrial war. There should be a police reserve of some kind, with the training and temper of police as distinguished from the military training and temper. Pennsylvania, I understand, has recently passed a law, providing for the creation of a state constabulary ; and in Porto Rico an insular or state police has been used with conspicuous success for many years. In any event and by state police or otherwise, an efficient police reserve should be maintained to assist the ordinary force during large strikes.

2. Apropos of Prof. Bemis's suggestion it should be noted that there is one condition far more provocative of desperate violence than poor police, and that is police closely affiliated either with labor or capital. Class government is worse than no government. The peculiarly revolting violence which characterized the Coeur d'Alene and Cripple Creek strikes, arose, in the greater part, from the very fact that the well-to-do and powerful citizens of whom Prof. Bemis speaks, did not ignore their civic duty, but performed it very actively by securing the election of sympathetic officials. The miners did the same thing, and I dare say everybody concerned, including the officials, was impartial and sincere according to his best lights.

3. A study of the cases in which the police or the militia have rigorously suppressed strike violence, makes it plain that the process is almost invariably accompanied by a very partizan administration of justice and rough contempt for the rights of the strikers. Take the Coeur d'Alene troubles of 1899, for instance. It is undoubtedly true that the local unions had maintained a reign of terror for months, and that troops were needed. But when they arrived they were practically put in command of an agent of the mine owners, doubtless a very respectable man, who immediately proceeded to smash the union by notifying the mine operators some of whom had lived at peace with the union and desired to continue bargaining collectively with it—that the employment of men belonging to the Western Federation of Miners “must cease”, and that “in case this direction is not observed your mines will be closed.”¹ Nor are actions of this kind confined to periods when martial law is in force. The acts of the Colorado militia in 1903,² when, by the explicit statement of Governor Peabody, Cripple Creek was *not* under martial law and the troops were present for the sole purpose of enforcing the civil law, were quite as arbitrary as the actions of the United States troops at Coeur d'Alene. Of course, we all agree, I suppose, that if it is necessary to smash unions, break strikes, prohibit picketing, and imprison labor leaders, in order to suppress violence, that these things must be done. Their necessity, unfortunately, does not keep them from creating in the minds of the strikers a class hatred, a distrust of the militia, and a resolution to renew the

¹ Report of the Industrial Commission, vol. XII, p. 390 *passim*.

² Report of the (U. S.) Commissioner of Labor, 1905, “Labor disturbances in Colorado,” p. 181 *seq.*

battle, which go far to counterbalance the blessings of peace.

From this proposition that the rigorous prevention or suppression of violence almost always involves violation of important legal rights, several profitable deductions may be drawn :

(a) Something undoubtedly needs to be done in the way of defining the status of military forces in labor disputes. Either the law is ordinarily broken, or the ordinary law is set aside, when the militia are called out. In either event, all the parties concerned in strike violence are entitled to know what is expected of them. Congress and the several state legislatures, should, it would seem, carefully formulate rules covering the following vital points: the powers and duties of the militia when merely assisting the civil authorities to enforce *the civil law*: the relations between the military and judicial authorities under such circumstances: the power of governors and military authorities to remove local officials for alleged incompetency or corruption: and the meaning and efficiency of rights guaranteed by federal law in districts where martial law has been declared by state authorities.

(b) If what has been said is true, it is apparent that the trade union's common objection to the calling out of troops has some equitable basis. This is a particularly difficult point for the layman to appreciate, and in another place¹ I have criticized the inconsistency of labor leaders who deny that their followers participate in violence, and in the same voice denounce the measures necessary to suppress violence. I still believe that organized labor makes a mistake in attempting to boycott the militia, as a few unions have done, and in

¹ Adams and Sumner, *Labor problems*, p. 212.

strenuously opposing the use of troops where widespread violence exists. But they have a distinct right to demand that the troops shall be used to suppress violence alone, and not to suppress strikes or trade unions. To this demand it is no answer to say, that as the union has stirred up the violence it must take the consequences, for the disturbance is frequently started by agents of the employers.¹

VI. *The Law and its Enforcement*: The fundamental reason why legal rights are frequently infringed by police and militia when suppressing violence, is found in the nature of the law on strikes.

In the first place the law is horribly confused; what is legal at one time is illegal at another; what one court prohibits another permits; what is criminal in one state is merely actionable in another and perfectly lawful in a third. It is unnecessary to enlarge on this point. The conflict of law is admitted by the courts themselves, and signifies nothing worse than the inherent difficulty of a problem which neither economists, legislators, nor judges have yet succeeded in solving.

In the second place the law draws distinctions here so subtle and refined that it is almost impossible to maintain them in theory and utterly impossible to preserve them in the clash of actual industrial war. "The law here," says Stimson, "goes into the domain of conscience and morals. The question is not so much what is done, nor even what results follow, but what is the inmost real intent the persons engaged in doing it."² It is no accident that the law on strikes is chiefly enforced through equity processes by the courts themselves. Nobody less expert than a trained jurist is fitted

¹ From a letter to the writer.

² Stimson, *Handbook to the labor law of the United States*, p. 200.

to enforce such law. Fancy a conscientious policeman trying not to interfere with a group of pickets in the exercise of their lawful rights of accosting, persuading, and exhorting a frightened scab, but trying just as conscientiously to prevent them from breaking the law by threatening, reviling, intimidating, or interfering with the scab. And this is one of the simple problems in the law of strikes.

In the third place, such law as exists is not enforced, the police do not enforce it, prosecuting attorneys do not enforce it, and the public makes no persistent or intelligent demand for its enforcement. As a people we have not dared—nor wished—to enforce the laws on strikes and boycotts, any more than we have dared to enforce the plain and unequivocal provisions of the anti-trust acts.

Some of the reasons for this non-enforcement of the law we have just found in the confusion and subtlety of the law itself. But there are profounder reasons still. One of these is the public recognition of the fact that the trade union is doing as much or more than any other single institution toward the realization of that most important of all social aims—a better distribution of wealth. We overlook the means which the unions often employ, because we endorse so heartily the end which they seek.¹ Another significant reason why we pardon the lawlessness of the unions is found in the fact that what is unlawful for workingmen is not unlawful for employers, or to state it more accurately, that unlawful acts which it is perfectly easy to discover when committed by workingmen, are utterly beyond discovery when committed by employers.

Is it necessary to prove this truth? Suppose a num-

¹ See Clark, *The problem of monopoly*, pp. 72, 73.

ber of union men wish to secure the discharge of a "scab." Because they must combine together, discuss the matter formally, pass resolutions and act through authorized agents, it is easy to discover the motive of the combination, and in most states the action is unlawful. Suppose on the contrary the employer of all these men, who is comparable to all of them in power and importance, discharges the president of the union merely to punish and harass the union. It is not only utterly impossible to discover his motive, but in most states his action is perfectly lawful irrespective of the motive. Suppose the workmen in a coal mine strike in order to force their employer to boycott the owner of a steel mill who is having trouble with his employees. In every state, so far as I know, their action is conspiracy and highly unlawful. But suppose the United States Steel Corporation, having a strike in one of its steel mills and discovering that the strikers are receiving financial assistance from their workmen in a coal mine, quietly close down the coal mine in order to cut off the source of supplies. It would be impossible to discover the cause of this shut down, and as the corporation is a legal personality, a unit, I do not see that the action could be regarded as unlawful even if the motive could be shown. The action of the employers in these supposititious cases is quite as bad from every point of view as the essentially similar action of their workmen, but the workingmen may be punished, while the employers may not.

In the beginning of this paper I called attention to the fact that the great significance of physical violence in strikes was the moral violence or coercion which it connotes, and expressed the opinion that the unregulated use of such coercion was morally wrong and

socially inexpedient. At this point I desire to call attention to the fact that employers habitually use a form of moral violence or coercion which may be equally as cruel, inexpedient and dangerous as the "scabbing" in which their workmen so frequently indulge. At the beginning of one of the most protracted wars between capital and labor which this country has ever known, one of the employers when informed that the men were about to strike replied, "Let 'em starve, then." The pressure of necessity and the coercion of want, these are weapons constantly used by employers who grow vehement in their denunciation of the ostracism of the scab, and who glow with fiery eloquence in explaining the immorality of the boycott or sympathetic strike. Surely it is unnecessary to enlarge upon this inconsistency. Every protracted strike is a mere test of resources in which the employer's strongest ally and main resource is the fear or actual presence of want. You tell me that the employers' alliance with the forces of hunger and want may be immoral, but that this is a matter for the conscience of the employer and not a question for the lawyer or the economist. I answer that in this question of labor combinations the law dips down into the secret recesses of morality, and inevitably as well as justly so. Mere immorality when swollen and intensified by huge combinations becomes more dangerous and oppressive than most of the actions which the criminal law undertakes to punish; and occasionally, as in the sympathetic railroad strikes of 1894, we are stricken with the terrible actuality of this truth. Only we forget that the employer is a combination in himself, and fail to transform his industrial immorality into indictable crime.

In conclusion it may be desirable to restate briefly the basal thought underlying this paper :

Strikes in this country (or more accurately the number of persons involved in strikes) are increasing. These strikes are normally accompanied by coercion, menace, boycotting, and intimidation, and these naturally produce a certain amount of physical violence, which is less important *per se* than in its revelation of the wide and fertile field of moral violence from which it springs. The law against physical violence is poorly enforced, while the law against moral violence is scarcely enforced at all ; and the result is a situation which is unbearable for those people who abhor violence and utterly detest those cunning forms of peaceful coercion which undermine manhood, stimulate graft, and foster oppression. How to remedy the situation is a problem which I am not called upon to solve, but which demands, nevertheless, the last few words.

It is evident that the way out of this situation is not by legalizing the boycott, the strike against the non-union man, and other forms of moral violence whose very existence creates the problem. On the other hand, it is just as plain that we cannot relieve the situation by vigorously enforcing the law against the unions, while employers are permitted to league themselves with the forces of want and poverty, and practice the same moral violence which in labor combinations we so justly condemn. We must equalize the law and then enforce it ; but it is plain that the equalization must come by levelling up, not down ; by increasing the responsibility of employers, not by diminishing the responsibility of the workmen. And it is equally plain that this higher law will be of no avail unless some new method of enforcement is secured ; our present

executive and judiciary have utterly failed to enforce existing law, and the legal reforms which are here contemplated would throw upon both arms of the government harder and more exacting tasks.

Personally, I see no solution of the problem short of an expert commission, essentially similar to the railroad rate commission, which shall stand midway between the executive and the judicial departments of government, whose specific duty shall be to foster and develop voluntary collective bargaining—when necessary to regulate voluntary collective bargaining in the interests of the public or the non-union man (parties not represented in ordinary collective bargaining)—and when collective bargaining breaks down to replace it with expert authoritative arbitration. Only through experts and in this round-about way shall we be able to enforce that difficult species of law which we have already devised for labor combinations and which some day we must apply to employers.

For after all there is no logical stopping place short of "fair" conditions of employment, and in particular the "fair wage," the wage that, in the opinion of the wisest, sanest, and most expert authorities to be secured, is, in view of all the circumstances, a fair wage. Our representatives at Washington are at this time considering ways and means by which to maintain "reasonable" railroad rates. Why, then, should we regard the "fair wage" as a utopian dream? The one is not more difficult than the other; nor more necessary.

Of course this program means "compulsory arbitration" in extreme instances; but of compulsory arbitration there is time to say only that in my deliberate opinion it is not only practicable and adaptable to the requirements of our constitutional law, but that it is

inevitable. As a class, economists have been led to condemn compulsory arbitration by confining their attention and consideration too exclusively to the New Zealand model. In time American ingenuity and the sound business sense of the American people, will devise an American system of compulsory arbitration and suppress industrial war.